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REMARKS

As indicated above, the claims in this application have been extensively revised, and their overall focus substantially narrowed, in view of the first Official Action and the references cited in the same. In this regard, all of the original claims which were directed to grain-based food substrates have been cancelled or otherwise changed by amendment to the same effect. As such, the claims now presented for reconsideration are restricted to coverage of Applicant's principal and preferred embodiment, which is based on the use of moldable, shape-retaining doughs made from potato or other such tubers. That is regarded as being entirely novel and distinct from any of the cited prior art in this case, and of a high order of novelty and unobviousness, particularly when coated with starch-component batters, as disclosed in Applicant's specification.

Further, in the foregoing regard, Applicant wishes to emphasize to the Examiner that the food products so constituted and produced are of a very high order of novelty, and in fact believed to never have been produced heretofore. The resulting products have a taste and possess organoleptic qualities that are distinct and uniquely different from any previous such foods. Furthermore, they provide for the manufacture of slender, intricate shapes which are not readily broken in manufacture, packaging, and shipment, could not be produced heretofore from non-dough substances such as the wet, heavy potato mashes referred to in the prior art patents cited as secondary references by the Examiner, e.g., Walter Jr., et al. ('363), Slimak ('137), Ishii et al. ('034), Chalupa ('707), and Melvej ('944), and in this regard it is noted that the Examiner

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has not in fact placed any reliance on any of these references, which is clearly a recognition of their very limited degree of relevance.

As the Examiner points out, the principal reference relied upon (Bauer et al. '179) discloses a broad range of substrates, including cereal-based products such as pizza dough, biscuit dough, "grain-based snack," veggie burger and breakfast cereals, but this patent has no teaching whatsoever involving potatoes or other such tubers, and no teaching whatsoever of food substrates made from moldable and pliable but shape-retaining dough that is primarily made from potatoes, tubers, or even such things as fruits and vegetables. In this regard, it is noted that the teachings of Bauer et al. do mention "veggie burgers," but there is no discussion of exactly what such a product actually is, or how it is made, and certainly no disclosure or even vague mention of a dough made from tubers, vegetables or fruits, etc., particularly a dough of this nature that is moldable, pliable, and shape-retaining, which permits the manufacture of shaped food products of intricate design, including elongated slender sections, etc. This is specifically acknowledged by the Examiner (Office Action, page 4, 1st ¶).

In rejecting claims originally presented that were directed to subject matter of the foregoing nature, under 35 U.S.C., §103 based on the Bauer et al. reference alone, the Examiner merely states that "it would have been obvious," but Applicant pointedly disagrees with any such assertion. The Bauer reference is totally devoid of such teachings, as specifically acknowledged by the Examiner, makes no such suggestions, and provides no motivation for any extension of its rather broadly-phrased disclosure. Quite to the contrary, the Bauer et al. reference is pointedly

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limited to the use of a cereal-based batter which contains sodium caseinate but does not contain any egg albumin, and even further limited to only those cases where the sodium caseinate is present in at least about 0.2% by weight.

That is the entire thrust of the Baur et al. reference, and this reference surely provides no hint of doing anything like what Applicant discloses and now specifically claims in this application. There is no basis for a rejection asserting "an obvious matter of choice," since there is no prior art of record of this case which even hints at any such "choice." Furthermore, as pointed out in Applicant's disclosure, the particular nature of the potato/tuber dough has specific attributes not shown in the prior art, and the product design enabled by such dough is even a further distance from anything known to the art. There is no basis for asserting any such "choice" and, on the contrary, Applicant's invention represents a new and specific departure from what is known, enabling the successful production of food products of a type totally unknown heretofore. In this regard, it is submitted that rejections must flow from the teachings of the prior art, and not from mere assertions that things are somehow "obvious" which are not even addressed by the prior art. On the contrary, a separate and distinct inventive concept is clearly present in Applicant's work, and this concept is now presented in specifically-worded claims that are limited to this concept.

As a final matter, Applicant notes the Examiner's rejection of claims 14-16, 18, and 24 under 35 U.S.C. §112, 2nd paragraph, on the basis that (with respect to claims 14-16 inclusive) "it is not clear what Applicant is claiming. Is the food product a parfried article, non-fried finished-

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cooked component, finish-cooked component or these components are additional components to the substrate and coating.” In stating this rejection, the Examiner gives a single explanation for rejecting all of claims 14-16; however, each such claim is different and must be viewed separately. In this regard, claim 14, dependent from claim 1, recites a substrate and coating as together comprising a parfried article. Certainly, there is nothing indefinite and vague about that. Claim 15, referring back to claim 14, further defines the substrate and coating as further comprising “a non-fried finish-cooked component,” which simply adds to the definition of the parfried article of claim 14 as being finish cooked by some process other than frying. It is not believed indefinite to recite a food substance as parfried, regardless of whether it is finish-cooked at all, or if finish-cooked, however that is done. Similarly, claim 16 relates back to claim 14, not claim 15, and further defines the parfried substrate and coating as comprising “a finish-cooked fried component,” which is basically the alternative of what claim 15 is claiming and covers a different version of the claimed subject matter, i.e., a finish-cooked fried article.

The rejection of claims 18 and 24 relates to the use in these claims of the terms “crispy” and “soft,” which the Examiner finds vague and indefinite. While it is believed that these terms are in fact terms of art in this field, which are well understood by those skilled in the art, Applicant does not wish to extend prosecution unnecessarily and has therefore cancelled claim 18. In claim 24, the recited terms are more directed to the environment and the overall subject matter than to specific, definitive limitations (which are provided in the various lines preceding the last line), in which “crispy” and “soft” appear. As such, it is believed that the claim is not rendered vague

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and indefinite by simply advising the reader as to the general nature of the resulting product, made by practice of the specified method steps preceding it. Reconsideration is therefore requested from the Examiner regarding this aspect of claim 24.


It is believed that the amendments made herewith and the preceding remarks have placed this case in complete condition for allowance. An early and favorable Notice in that regard is therefore believed appropriate, and respectfully requested.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please cancel claims 4, 9, 10, 13, 18, 21, 28, and 34; and amend claims 1, 5, 11, 12, 14, 15, 19, 20, 23, 29, 30, 32, 33, 35 and 36.

1. (Amended) A new type of cooked food product comprising a shaped substrate made from moldable[, edible] shape-retaining potato-based dough, and an exterior coating on said shaped substrate made primarily from [a] particulate starch components [base], said coating [being] applied to said substrate prior to cooking said substrate and cooked in place thereupon.

5. (Amended) A new type of food product as set forth in claim [4] 1, wherein said substrate is in the form of a waffle.

11. (Amended) A new type of food product as set forth in claim [4] 1, wherein said potato-based dough includes at least some [partially] cooked potato prior to being cooked with said substrate in place.

12. (Amended) A new type of food product as set forth in claim [4] 1, wherein said dough includes at least some dehydrated potato.

14. (Amended) A new type of food product as set forth in claim 1, wherein said substrate and coating together comprise a parfried article.

15. (Amended) A new type of food product as set forth in claim 14, wherein said substrate and coating further comprises a non-fried finish[ed]-cooked component.

16. (Amended) A new type of food product as set forth in claim as set forth in claim 14, wherein said substrate and coating further comprise a fried finish-cooked article [fried component].

19. (Amended) A new type of food product as set forth in claim [18] 1, wherein said food product comprises a waffle.

20. (Amended) A new type of food product as set forth in claim [18] 1, wherein said food product comprises a baked product.

24. (Amended) A method of making a food item, comprising the steps of:

making a formable shape-retaining dough from non-grain edible natural food substance;

shaping [a] said formable shape-retaining [food] dough [item having] into a desired configuration;

coating said shaped dough food item with a particulate starch-component ingredient mix;
and

cooking said shaped and coated non-grain dough food item with said coating in place upon it, to thereby obtain a shaped food product having a crispy exterior and a soft interior.

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29. (Amended) The method of claim [27] 24, wherein said step of [shaping] making a food dough comprises [forming a patty from potato dough] using potato tuber as said non-grain edible natural food substance.

30. (Amended) The method of claim [29] 24, wherein said forming step comprises making a waffle shape from said [potato] dough.

32. (Amended) The method of claim [27] 24, wherein said step of shaping comprises forming said dough into a pancake.

33. (Amended) The method of claim [27] 24, wherein said step of shaping comprises forming said dough into a shape which emulates a slice of a natural food.

35. (Amended) The method of claim [25] 24, including the step of using [a food dough whose main ingredient comprises a] at least some shredded non-grain natural food in making said dough.

36. (Amended) The method according to claim 35, wherein said shredded non-grain natural food is at least partially dried before using it in making said dough.